IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 30625 of 1998

Between:

1. Nanduri Koteswara Rao S/o Ramanaiah
2. Padamuthum prakash s/o Nethanial
3. Thella David Wilson S/o Prasada Rao
4. Desireddy Narayana Reddy S/oj Subba Reddy
5. Palli Dasu S/p Nargunam
6. Thupakula Sreenivasarao S/o Rathaiah
7. Atchukolu Sreenivasarao S/o Venkaiah
8. Sk. Usman S/o Patchamaia
9. Gunji pothuraju S/o Seshaiah.

All are residents of Seetharamapuram, near Ramalayam Steps,
Ongole , Prakasam district.

.....PETITIONERS

AND

1. The Government of Andhra Pradesh, represented By its Principal Secretary, Municipal Administration, Secretariat buildings, Hyderabad.
2. The Municipal Commissioner, Ongole Municipality, Ongole
3. The Revenue Divisional Officer, Ongole.
4. The Mandal Revenue Officer, Ongole.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to ISSUE A Writ or order in the nature of Mandamus, declaring the action of the respondents in proposing to remove their Bunks situated in front of the office of RDO, Ongole, without being offered alternative accommodation to their shops and without issuing notices, as arbitrary, illegal and violative of Article 21 of Constitution of India and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

For the Petitioners: MR.M.RAVINDRANATH REDDY

For the Respondent No.1: GP for Municipal Administration and Urban Development
For respondent No.2: Mr.E.Sambasiva Pratap, SC for R-2

For respondent No.3 and 4: GP for Revenue

The Court made the following :

ORAL ORDER

Though interlocutory matter is listed for hearing, with the consent of the learned counsels appearing for the parties, the writ petition itself is taken up for consideration.

This Writ Petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in taking steps for removal of the bunks erected by the petitioners in front of the office of the Revenue Divisional Officer, Ongole, without conducting enquiry and without providing alternative accommodation, as illegal and arbitrary.

It is the case of petitioners that they have erected wooden bunks and are in occupation of the area ranging from 118 square feet to 160 square feet, by doing business in watch repairing, cool drinks, belts etc. It is their case that the income from the said business is source of their livelihood and without conducting enquiry and without issuing prior notice by following the procedure under the law, the respondents are taking steps to remove the bunks arbitrarily and high-handedly.

Counter-affidavit is filed by the Revenue Divisional Officer stating that the petitioners are encroachers over

the Government land in T.S.Nos.630 and 631 of Ongole town and are in occupation of the said land by erecting wooden bunks. It is further stated that there was sanction of Rs.2,00,000/- for construction of compound wall around the office of Revenue Divisional Officer and the said banks, which are erected by the petitioner have become hindrance for construction of compound wall; as such, steps are being taken for removal of the encroachments by resorting procedure under the provisions of A.P. Land Encroachment Act, 1905.

In view of the stand of the respondents in the counter affidavit, it cannot be said that the respondents are taking steps for removal of the structures illegally and arbitrarily. It is stated in the counter affidavit that action has been proposed to evict the petitioners by following the procedure envisaged under A.P. Land Encroachment Act, 1905. In that view of the matter, I dispose of the Writ Petition by observing that if the respondents proceed to take steps for eviction of the petitioners, the same shall be done by following the procedure under the A.P. Land Encroachment Act, 1905.

Subject to the above observation, the writ petition is disposed of. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

TO

1. The Government of Andhra Pradesh, represented
   By its Principal Secretary, Municipal Administration,
   Secretariat buildings, Hyderabad.
2. The Municipal Commissioner, Ongole Municipality, Ongole
3. The Revenue Divisional Officer, Ongole.
4. The Mandal Revenue Officer, Ongole.
5. Two copies to G.P.Revenue
6. Two C.D copies